

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO.: 1:16CR170
	)	
Plaintiff,	)	JUDGE PATRICIA A. GAUGHAN
	)	
v.	)	
	)	
MALCOLM ROBERSON,	)	<u>UNITED STATES' TRIAL BRIEF</u>
	)	
Defendant.	)	

The United States of America, by and through its counsel, Carole S. Rendon, United States Attorney, and Benedict S. Gullo and Edward F. Feran, Assistant United States Attorneys, respectfully submits the following trial brief in accordance with this Court's Trial Order dated June 20, 2016 (Docket #11).

**I. STATEMENT OF THE FACTS**

The evidence will show that on or about February 20, 2016, in the Northern District of Ohio, Eastern Division, the Defendant and Chimere Turner, in connection with the acquisition of a firearm, that is, a Jimenez Arms Inc., Model J.A. NINE, 9mm pistol, Serial Number 365568, from Taylor Firearms, LLC, Vermillion, Ohio, a federally licensed dealer of firearms, did knowingly and unlawfully make and cause to be made false and fictitious statements, intended and likely to deceive said dealer with respect to facts material to the lawfulness of the sale and

acquisition of said firearm, in that the Defendant and Turner represented orally and in writing to Taylor Firearms, LLC that Turner was the actual buyer of said firearm, when in fact the Defendant was the actual buyer of the firearm.

The evidence will further show that from on or about February 20, 2016, through on or about March 18, 2016, in the Northern District of Ohio, Eastern Division, the Defendant, having been previously convicted of a crime punishable by imprisonment for a term exceeding one year, that being: Assault, in the Cuyahoga County Common Pleas Court, Case No. CR-10-544007-A, on or about October 13, 2011, did knowingly possess in and affecting interstate commerce a firearm, a Jimenez Arms Inc., Model J.A. NINE, 9mm pistol, Serial Number 365568, and Hornady-brand 9mm ammunition.

Finally, the evidence will demonstrate that on March 18, 2016, the Defendant made incriminating statements to the Bureau of Alcohol, Tobacco, Firearms, and Explosives when interviewed by ATF Special Agent Lucas Battani.

## **II. STIPULATIONS**

There are no stipulations in this case.

## **III. JURY INSTRUCTIONS**

Joint Jury Instructions have been filed separately.

## **IV. VOIR DIRE QUESTIONS**

Proposed voir dire questions have been filed separately.

## **V. ANTICIPATED LEGAL AND/OR EVIDENTIARY ISSUES**

A. Jencks. The United States provided *Jencks* material to Defendant on November 21, 2016.

B. Witness and Exhibit Lists. Each list will be electronically filed prior to trial.

C. Sequestration of Witnesses / Presence of Government Agent at Trial. The United States respectfully requests that the Court issue a witness-sequestration order pursuant to Federal Rule of Evidence 615. The United States designates ATF Special Agent Lucas Battani as its representative to be present at counsel table throughout the trial. Agent Battani's presence in the courtroom during trial is essential to the presentation of the United States' case. *See* FED. R. EVID. 615(b) (specifically excluding from a sequestration order "an officer or employee of a party that is not a natural person, after being designated as the party's representative by its attorney"); FED. R. EVID. 615(c) (providing an additional exception for essential witnesses).

**VI. ESTIMATED LENGTH OF TRIAL**

The United States anticipates completing its case-in-chief in approximately two days.

**VII. EXHIBITS**

The United States will pre-mark all exhibits in accordance with this Court's Trial Order dated June 20, 2016 (Docket #11).

**VIII. CONCLUSION**

The United States is prepared to submit additional briefing on any issue should the Court or circumstances require.

Respectfully submitted,

CAROLE S. RENDON  
United States Attorney

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 23rd day of November 2016 a copy of the foregoing document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's system.

/s/ Benedict S. Gullo

Benedict S. Gullo  
Assistant U.S. Attorney